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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,108	07/08/2003	Jeff Grady	4185-101 CIP	9122

23448 7590 05/19/2005

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

NGUYEN, THUAN T

ART UNIT PAPER NUMBER

2685

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,108

Applicant(s)

GRADY, JEFF

Examiner

THUAN T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 1-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,591,085 B1 (the Patent) in view of White et al. (US Patent 6,532,152 B1). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following statements.

Regarding claims 1-20, these claims are identical to claims 1-20 of US Patent 6,591,085 B1 except for the limitation of “with retention element for retaining the MP3 player in position in the cavity” as in claim 1 of the present application; however, the technique of having a docking station with the cavity for retaining the electronics device is known in the art. In fact, White teaches a same technique in having a docking station with the cavity for retaining the electronics device (Figs. 10-12, and col. 21/lines 19-63 for a dock unit 1000 can be used for a stationary or vehicle, and the electronics device 400 can be rested in the cavity slot 1006. Therefore, it would have been obvious to one of ordinary skill in the art to modify the existing system of the Patent with a known feature of having a docking station with the cavity for retaining the electronics device, i.e., a MP3 player in this scenario, in order to place the MP3 player in a steady and secure position with the use of the docking station with the cavity as preferred.

As for claims 21-25, the retention means should have further comprising “side rails on the main body portion, bounding the cavity”, “lateral tabs extending inwardly from the side rails”, and a retractable shelf member mounted on the main body portion for manually actuation by a digit of a user as well as the arrangement of the retractable shelf at a first end of the cavity and the coupling means at a second opposite end of the cavity. In further view of claim 1 above, White also reveals the same limitations (refer to White, Figs. 6A & 6B & Fig. 10/item 1010 for side rails addressed). Therefore, it would have been obvious to one of ordinary skill in the art to

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modify the Patent with similar side rails as disclosed by White as to the retention means and the retractable means of the FM transmitter and power supply/charging assembly coupled to an MP3 player as described for further shaping up their details as described.

As for claim 26, it would have been obvious to further include a coupling means comprise a dock connector for coupling the MP3 player with a firewire port or a USB port as claimed earlier in claim 2 of the Patent.

As for claim 27, it would have been obvious to further include a frequency indicator on the main body portion for displaying the frequency range as claimed earlier claim 8 of the Patent.

As for claim 28, it would have been obvious to further include a tuning control for controlling the output signal for the frequency range as claimed earlier claim 8 of the Patent.

As for claim 29 and 30, it would have been obvious to further identify the main body portion is a generally rectangular shape and further comprising a headphone jack as a conventional FM radio transmitter/or transceiver.

As for claim 31, this claim is called for in claim 1 of the Patent.

As for claim 32, this claim is called for in claim 8 of the Patent.

As for claim 33, this claim is called for in claim 9 of the Patent.

As for claim 34, this claim is called for in claim 10 of the Patent.

As for claim 35, this claim is called for in claims 15 and 20 of the Patent for a power charger of a FM receiver for use in a vehicle.

As for claims 36-40, these claims are called for in the scope of claims 1-20 of the Patent for an FM transmitter and power supply/charging assembly electrically coupled to an MP3 player with a docking unit and the power charging charges a battery of the MP3 player and/or

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powering of the MP3 player (refer to White for the teaching of the docking station and the retention element as disclosed in claim 1 above).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

McConnel et al and Johnson et al (PTO 892 attached) disclose systems related to portable media devices and docking unit.

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

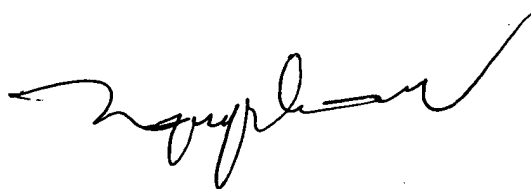
(703) 872-9306, (for Technology Center 2600 only)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895.

The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tony T. Nguyen', with a stylized flourish at the end.

**TONY T. NGUYEN
PATENT EXAMINER**

Tony T. Nguyen
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May 5, 2005